

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE ENROLLED ACT No. 545

AN ACT to amend the Indiana Code concerning trade regulations; consumer sales and credit.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 24-4.5-3-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 201. Loan Finance Charge for Consumer Loans other than Supervised Loans— (1) Except as provided in subsections (6) and (8), with respect to a consumer loan other than a supervised loan (IC 24-4.5-3-501), a lender may contract for a loan finance charge, calculated according to the actuarial method, not exceeding twenty-one percent (21%) per year on the unpaid balances of the principal.

(2) This section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

- (a) the loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and
- (b) the effect of prepayment is governed by the provisions on rebate upon prepayment (IC 24-4.5-3-210).

(3) For the purposes of this section, the term of a loan commences with the date the loan is made. Differences in the lengths of months are disregarded and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may

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reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and if that procedure is not consistently used to obtain a greater yield than would otherwise be permitted. For purposes of computing average daily balances, the creditor may elect to treat all months as consisting of thirty (30) days.

(4) With respect to a consumer loan made pursuant to a revolving loan account:

(a) the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a charge in each monthly billing cycle which is one and three-fourths percent (1 3/4%) of an amount no greater than:

- (i) the average daily balance of the debt;
- (ii) the unpaid balance of the debt on the same day of the billing cycle; or
- (iii) subject to subsection (5), the median amount within a specified range within which the average daily balance or the unpaid balance of the debt, on the same day of the billing cycle, is included; for the purposes of this subparagraph and subparagraph (ii), a variation of not more than four (4) days from month to month is "the same day of the billing cycle";

(b) if the billing cycle is not monthly, the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a percentage which bears the same relation to one-twelfth (1/12) the maximum annual percentage rate as the number of days in the billing cycle bears to thirty (30); and

(c) notwithstanding subsection (1), if there is an unpaid balance on the date as of which the loan finance charge is applied, the lender may contract for and receive a charge not exceeding fifty cents (\$0.50) if the billing cycle is monthly or longer, or the pro rata part of fifty cents (\$0.50) which bears the same relation to fifty cents (\$0.50) as the number of days in the billing cycle bears to thirty (30) if the billing cycle is shorter than monthly, but no charge may be made pursuant to this paragraph if the lender has made an annual charge for the same period as permitted by the provisions on additional charges (paragraph (c) of subsection (1) of IC 24-4.5-3-202).

(5) Subject to classifications and differentiations, the lender may reasonably establish and make the same loan finance charge on all amounts financed within a specified range. A loan finance charge does

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not violate subsection (1) if:

- (a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (1); and
- (b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) With respect to a consumer loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars (\$30).

(7) The amount of thirty dollars (\$30) in subsection (6) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

(8) In addition to the loan finance charge provided for in this section, a lender may contract for the following:

- (a) With respect to a consumer loan ~~that is primarily secured by an interest in land and~~ that is not made under a revolving loan account, a loan origination fee of not more than two percent (2%) of the loan amount.
- (b) With respect to a consumer loan ~~that is primarily secured by an interest in land and~~ that is made under a revolving loan account, a loan origination fee of not more than two percent (2%) of the line of credit that was contracted for.
- (9) The charges provided for in subsection (8):
 - (a) are not subject to refund or rebate; ~~and~~
 - (b) are not permitted if a lender makes a settlement charge under IC 24-4.5-3-202(d)(ii); ~~and~~
 - (c) **are limited to two percent (2%) of the part of the loan that does not exceed two thousand dollars (\$2,000), if the loan is not primarily secured by an interest in land.**

Notwithstanding subdivision (a), if a lender retains any part of a loan origination fee charged on a loan that is paid in full by a new loan from the same lender within three (3) months after the date of the prior loan, the lender may charge a loan origination fee only on that part of the new loan not used to pay the amount due on the prior loan, or in the case of a revolving loan, the lender may charge a loan origination fee only on the difference between the amount of the existing credit line and the increased credit line. This subsection does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyance, and similar documents



under IC 24-4.5-3-202(d)(ii), in addition to the charges provided for in subsection (8).

SECTION 2. IC 24-4.5-3-408 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 408. (1) This section also applies to revolving loan accounts.**

(2) Except as provided in subsection (3) a creditor shall credit a payment to a consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance charge or other charge, including a late charge. A delay in posting does not violate this section so long as the payment is credited as of the date of receipt.

(3) If a creditor specifies requirements for the consumer to follow in making payments of the contract, payment coupon book, payment coupon or statement, or periodic statement, but accepts a payment that does not conform to the requirements, the creditor shall credit the payment within two (2) days of receipt of the payment.

(4) If a creditor fails to credit a payment as required by this section in time to avoid the imposition of a finance or other charge, including a delinquency charge, the creditor shall adjust the consumer's account so that the charges imposed are credited to the consumer's account during the next payment period.

SECTION 3. IC 24-4.5-3-606 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 606. (1) In addition to any disclosures otherwise provided by law, a lender soliciting loans using a negotiable check, facsimile, or other negotiable instrument that may be used by a consumer to activate a new loan shall disclose the following:**

"This is a solicitation for a loan. Read the enclosed disclosures before signing this agreement."

This notice shall be printed in at least ten point type and shall appear conspicuously on the offer.

(2) If a negotiable check, a facsimile, or another instrument is stolen or incorrectly received by someone other than the intended payee and the instrument is fraudulently cashed, the consumer who was the intended payee is not liable for the loan obligation.

SECTION 4. [EFFECTIVE JULY 1, 1999] IC 24-4.5-3-201, as amended by this act, does not apply to consumer loans in existence before July 1, 1999.



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